

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Sunnyside Cogeneration/Star Point Refuse
Permit #: C/007/042

NOV # N04-49-3-1
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation**. Mark and explain each event.

- | | | |
|-------------------------------------|----|--|
| <input type="checkbox"/> | a. | Activity outside the approved permit area. |
| <input checked="" type="checkbox"/> | b. | Injury to the public (public safety). |
| <input type="checkbox"/> | c. | Damage to property. |
| <input checked="" type="checkbox"/> | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input type="checkbox"/> | f. | Water pollution. |
| <input type="checkbox"/> | g. | Loss of reclamation/revegetation potential. |
| <input type="checkbox"/> | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/> | i. | No event occurred as a result of the violation. |
| <input type="checkbox"/> | j. | Other. |

Explanation: The operator did not follow the approved operating plan in the State approved Mining and Reclamation Plan. The approved plan shows that the refuse pile will be mined from the top of the pile in lifts. The material could be pushed down the existing slopes to the base of the pile and then loaded on trucks or trucked off the top of the pile by the existing primary road. Mining operations were taking place at the toe of the pile. Mining at the toe of the pile created a 20' highwall in consolidated material. Approximately 80' - 100' of unconsolidated material was placed above the 20' highwall by pushed material from the top (Total highwall height approximately 100' - 120'). This action created a serious public safety risk by conducting mining activities that were not approved by the Division. Mining operations at the toe of the pile are adjacent to a public road (Carbon County Road 290). There are no fences or gates to prevent access to this area by the public.

2. Has the event occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: Mining operations were taking place at the toe of the pile. Mining at the toe of the pile created a 20' highwall in consolidated material. Approximately 80' - 100' of unconsolidated material was placed above the 20' highwall by pushed material from the top (Total highwall height approximately 100' - 120'). This action created a serious public safety risk by conducting mining activities that were not approved by the Division. Mining operations at the toe of the pile are adjacent to a public road (Carbon County Road 290). There are no fences or gates to prevent access to this area by the public.

3. Did any damage occur as a result of the violation? No

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: _____

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

☐ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: _____

☒ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: The potential harm to the public should have been very obvious to the contractor employed by the operator. Work to correct the highwall hazard, after being identified by the Division, was corrected before the inspection was concluded. The contractor reconfigured the highwall to a slope that would be stable and not cause injury to contractor or the public.

☒ Was the operator in violation of a specific permit condition?

Explanation: The permit is very specific on how the pile is to be mined in lifts. The approved plan shows that the refuse pile will be mined from the top of the pile in lifts. The material could be pushed down the existing slopes to the base of the pile and then loaded on trucks or trucked off the top of the pile by the existing primary road.

☐ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: The operator had the contractor remove the potential safety hazards to the contractor and/or the public before the end of the inspection. The contractor had equipment on site and reduced the highwall to a safe slope. The operator is also required to submit a plan that identifies road accesses at the base of the pile. This plan needs to incorporate measures taken to protect the public and to prevent material from tracking onto the county road.

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: The contractor had equipment on site and reduced the highwall to a safe slope.

3. Was the submission of plans prior to physical activity required by this NOV / CO? Yes If yes, explain.

Explanation: The submission of a plan applies to a portion of the violation and should be approved by the Division before implementation. The operator is required to submit a plan that identifies road accesses at the base of the pile. This plan needs to incorporate measures taken to protect the public and to prevent material from tracking onto the county road. The abatement date is to occur by March 26, 2004.

Karl R. Houskeeper
Authorized Representative

Signature

March 1, 2004
Date